

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Werner SCHWARZBÄCKER et al.

Serial No.: 10/009,541

Filed: December 7, 2001

For: Method and Device for Adjusting Moisture in  
Cooking Devices

Examiner: Yeung, G. C. P.  
Group Art: 1761

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

October 20, 2004  
(Date of Deposit)

F. Brice Faller

Name of applicant, assignee or Registered Representative

  
Signature

October 20, 2004  
Date of Signature

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO RESTART REPLY PERIOD

SIR:

By this petition, Applicants request that the reply period for the Notice of Non-Compliant Amendment with a mail date of June 25, 2004 be restarted due to non-receipt of said Notice, in accordance with the procedure set forth in the MPEP 710.06 for restarting a reply period.

On October 7, 2004, Applicants' undersigned representative contacted Examiner Yeung at the United States Patent and Trademark Office to determine the status of the subject application because four months had elapsed since an Amendment was filed and no response was

received. Examiner Yeung informed the undersigned that a Notice of Non-Compliant Amendment had been mailed on June 25, 2004, and was kind enough to telefax the attached copy to the undersigned. MPEP 710.06 states that a petition to restart will be granted if the petition is filed within two weeks of the date of receipt of the Office action at the correspondence address, a substantial portion of the reply period has elapsed on the date of receipt (i.e., one month of a 3 month period), and the petition includes evidence showing the date of receipt and how it established the date of receipt.

In the present case, Applicants did not actually receive the Notice until it was telefaxed by the Examiner on October 8, 2004. Since the Notice was received on October 8, 2004, this petition is being filed within two weeks of the date that Applicants' representative received the Notice. Furthermore, since the Notice was mailed June 25, 2004, more than one month of the extended reply period has elapsed.

A copy of the file jacket for the above-referenced file, a copy of the electronic docketing records, and a copy of the manual docketing records of the applicants' representative are attached to the annexed declaration of F. Brice Faller. These records evidence the lack of receipt of the Notice of Non-Compliant Amendment.

It accordingly appears that the Notice was likely lost or misdirected, wherefore restart of the period for reply to the Notice is requested. A Response to the Notice of Non-Compliant Amendment is enclosed.

It is believed that no fees or charges are required at this time in connection with the present application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

By   
F. Brice Faller  
Reg. No. 29,532  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
(212) 687-2770

Dated: October 20, 2004



Attorney Docket # 5150-12PUS

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Werner SCHWARZBÄCKER et al.

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Examiner: Yeung, G. C. P.  
Group Art: 1761

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF F. BRICE FALLER**

SIR:

I, F. Brice Faller, hereby declare and state that:

1. I am one of the attorneys of record in the above-identified application. I am registered to practice before the United States Patent and Trademark Office (USPTO) under Registration No. 29,532.

2. On October 7, 2004, I telephoned Examiner George C. Yeung at the USPTO to determine the status of the subject patent application, because over four months had elapsed since an Amendment was mailed on June 3, 2004.

3. During the telephone call, Examiner Yeung informed me that according to the USPTO records, a Notice of Non-Compliant Amendment had been mailed on June 25, 2004.

4. Communications which we receive and send to the USPTO are recorded on the jacket cover of the application file and docketed in our computerized docketing system. A copy of the jacket cover and the computerized docketing sheet for the subject application is attached hereto. The latter shows that the last Office action was mailed on March 4, 2004, and that a response was due on June 4, 2004. In addition, we maintain a manual log which lists all responses due by the date on which they are mailed. The dates on which they are received and a response is due are also entered here. A copy of the manual log for June 25, 2004 is attached. There is no entry for Serial No. 10/009,541.

5. The jacket cover of the application, the computerized docketing sheet, and the manual log each evidence that the Notice of Non-Compliant Amendment was not received by us. Accordingly, we request that the response time be restarted so that the attached Response to Notice of Non-Compliant Amendment can be considered without paying any extension fee.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 20<sup>th</sup> day of October, 2004.



F. Brice Faller  
Registration No. 29,532

COHEN# 5150-12PUS

PRINTED ON: 10/19/2004

COUNTRY	US	UNITED STATES	TITLE						
NEW/CON	NEW	SERIAL#	10/009,541	METHOD AND DEVICE FOR ADJUSTING MOISTURE IN COOKING DEVICES					
RELATED		PATENT#							
TYPE	UTL	STATUS	PENDING						
CLIENT	5150	ERWIN ZMYJ		1	CREF	022/Con 15/US			
AGENT					AREF	DE19926485.6			

PRIOR	6/10/1999
MAIL	12/7/2001
FILE	12/7/2001
PUBL	
ISSUE	
1ST	12/7/2001
EXP	12/7/2021

ID	O	ACTION	BASE	DU IN	DU	EXTNS	FINAL	EXT	RESPONSE	CALL UP	1	2	P				
	Y	PRE AMDT&INT'L APPL	12/7/2001														
ENGLISH TRANSLATION																	
DL	N	PRIORITY DEADLINE	6/10/1999	30	M	12/10/2001		12/10/2001	0	12/7/2001	1	M	Y	Y	N		
PCT/EP00/04944 FILED: 05/30/00																	
DD	N	FILE DECL	12/7/2001	2	M	2/7/2002	4	1	6/7/2002	0	12/7/2001	10	D	Y	Y	N	
	Y	NOTIF OF ACCEPT MLD	2/25/2002														
FS	N	FILG RCPT STATUS CHK	12/7/2001	3	M	3/7/2002	3	1	6/7/2002	1	3/4/2002	0	M	N	N	Y	
DUPLICATES SENT																	
AF	N	RECORDED ASSIGN RECD	12/7/2001	6	M	6/7/2002	3	1	9/7/2002	0	5/10/2002	1	D	N	N	Y	
RECORDATION DATE: 12/07/01 REEL/FRAME: 012656/0187																	
OA	N	MAIL O.A. TO CLIENT	3/8/2004	21	D	3/29/2004	0	0	3/29/2004	0	4/2/2004	0	D	Y	Y	N	
RE	N	RESPONSE TO OA	3/4/2004	3	M	6/4/2004	3	1	9/4/2004	1	6/3/2004	1	M	Y	Y	N	
R=06/07/04																	
S1	N	STATUS CHECK 1	6/3/2004	3	M	9/3/2004	3	1	12/3/2004	2			0	D	Y	Y	N

INVENTORS	
Schwarzbaecker, Werner	
Horvath, Jenoe	

ASSIGNEES	
CONVOOTHERN ELEKTROGERAETE	

USER-DEFINABLE FIELDS				PATENT FIELDS					
ART#	1761			SMALL ENTITY			ART UNIT	1761	
LOC				CLAIMS			EXAMINER	YEUNG, GEORGE CHA NOLU	
	EFS 3678			PUBLICATION#			CONFIRM#		

P05060US00	ENTERED	11/28/2001	MODIFIED	6/11/2004	BY	MM	ATTORNEYS	TCP	/	FBF	/	SM
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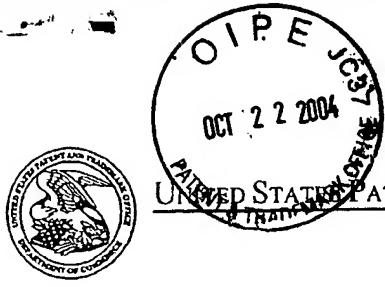
FRIDAY **25** JUNE

2004 177th day - 189 days follow

Serial No.	PP Document	Received	Due Date
10/444,328	ERROR Exam Answer	6/25/04	8/3/04
PTTIB01/01898	With opn	6/25/04	8/25/04
10/825941	FNP	6/25/04	8/25/04
10/451,832	DA	6/25/04	9/25/04
10/713,133	DA	6/25/04	9/27/04
10/705,071	DA	6/25/04	9/25/04
10/452,769	N/accept (Accept of PDA)	7/14/04	N/A
10/425,009		7/26/04	N/A

ALAGLANCE





## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,541	12/07/2001	Werner Schwarzbacher	S150-12PUS	3678
7590	06/25/2004		EXAMINER	YEUNG, GEORGE CHAN PUI
Cohen Pontani Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176			ART UNIT	PAPER NUMBER
1761				

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



## UNITED STATES PATENT AND TRADEMARK OFFICE



10/009541

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 6/7/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

1. Amendments to the specification:  
 A. Amended paragraph(s) do not include markings.  
 B. New paragraph(s) should not be underlined.  
 C. Other \_\_\_\_\_

2. Abstract:  
 A. Not presented on a separate sheet. 37 CFR 1.72.  
 B. Other \_\_\_\_\_

3. Amendments to the drawings: \_\_\_\_\_

4. Amendments to the claims:  
 A. A complete listing of all of the claims is not present.  
 B. The listing of claims does not include the text of all claims (including withdrawn claims).  
 C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.  
 D. The claims of this amendment paper have not been presented in ascending numerical order.  
 E. Other: All claim should be submitted with proper status identifiers

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opa/procnotice/officenew.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an **Advisory Action**. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Veronica A. Rieburn 571-272-0988  
Legal Instruments Examiner (LIE) Telephone No.